

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CARROL OWENS,

Plaintiff,

v.

CIVIL ACTION NO. 5:12-cv-03620

FCI BECKLEY, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On July 24, 2012, the Plaintiff filed a pro-se letter-form Complaint (Document 1). On August 6, 2012, the Plaintiff filed a subsequent Complaint (Document 4). In connection with the same, the Court has reviewed the *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 24) and the Plaintiff's *Motion in Opposition to Defendant's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 30).

By *Standing Order* (Document 2) entered on July 24, 2012, and by *Memorandum Opinion and Order* (Document 39) entered on February 19, 2013, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On August 9, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 43) wherein it is recommended that this Court grant the *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 24); deny the Plaintiff's *Motion in Opposition to Defendant's Motion to Dismiss, or in the Alternative, Motion for Summary*


Judgment (Document 30); dismiss the Plaintiff's Complaint (Documents 1 & 4); and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by August 26, 2013.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 24) be **GRANTED**; the Plaintiff's *Motion in Opposition to Defendant's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment* (Document 30) be **DENIED**; the Plaintiff's Complaint (Documents 1 & 4) be **DISMISSED**; and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: August 27, 2013


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA